

FILED

United States District Court

APR 20 2006

MIDDLE

DISTRICT OF

ALABAMA

UNITED STATES OF AMERICA

v.

ANTONIO CERVANTES-CANO

(Name and Address of Defendant)

CLERK
U. S. DISTRICT COURT
MIDDLE DIST. OF ALA.

CRIMINAL COMPLAINT

CASE NUMBER:

2:06mj-38-SRW

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about November 6, 2005, in Montgomery county and elsewhere within the Middle District of Alabama defendant(s) did, (Track Statutory Language of Offense)

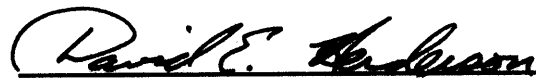
being an alien unlawfully in the United States, knowingly and intentionally possess in and affecting commerce, a Rossi .38 caliber firearm which had been shipped in interstate and foreign commerce,

in violation of Title 18 United States Code, Section(s) 922(g)(5)(A) I further state that I am a(n)

Immigration & Customs Enforcement Service Special Agent and that this complaint is based on the following facts:
Official Title

SEE ATTACHED AFFIDAVIT WHICH IS INCORPORATED HEREIN BY REFERENCE.

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No



Signature of Complainant

Sworn to before me and subscribed in my presence,

April 20, 2006

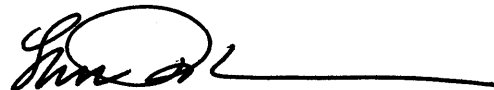
Date

at Montgomery, Alabama

City and State

Susan Russ Walker, U.S. Magistrate Judge

Name and Title of Judicial Officer



Signature of Judicial Officer

AFFIDAVIT

I, David E. Henderson, being duly first sworn, do hereby state and affirm that:

I am a duly sworn Special Agent of the U.S. Immigration and Customs Enforcement (ICE) assigned to the office of the Resident Agent in Charge, Mobile, Alabama. I have been employed as a federal agent for approximately five years. One of my principal assignments has been to conduct criminal investigations of persons involved in violation of the United States Code relating to Title 8 – Aliens and Nationality along with other violations of federal law.

On November 6, 2005, Montgomery Police Officer J. Bolton was dispatched to the 3100 block of Moorecroft Drive in Montgomery, Alabama, on a call of a subject firing a gun in the area. Upon arriving in the area, Officer Bolton spoke with the complainant who stated that they observed a Hispanic male dressed in black fire a handgun approximately 4 to 5 times into the air. The complainant also stated that they had last seen the individual walk towards building 3125 of the apartments located on Moorecroft Drive. Upon searching the area, Officer Bolton and Officer Adams observed a Hispanic male matching the given description. Officer Bolton utilized the assistance of an unidentified Hispanic female, who was standing outside of an apartment, to ask the Hispanic male to walk to their location. As the Hispanic male approached, Officer Bolton observed a handgun protruding from the back right pocket of the subject's pants. The handgun was retrieved and the subject was patted down for officer safety. The handgun was identified as a Rossi .38 caliber revolver bearing serial number D310643. The Rossi .38 caliber pistol was not manufactured in the State of Alabama. With the assistance of the unidentified Hispanic female, Officer Bolton identified the subject as Antonio CERVANTES.

Officer Bolton subsequently arrested CERVANTES for violation of license to carry a pistol. CERVANTES was placed in the Montgomery City Jail and the pistol was impounded at the Montgomery Police Department.

On April 20, 2006, Montgomery Police Sergeant A. Mercado and I interviewed CERVANTES at the Montgomery Police Department. I advised CERVANTES of his constitutional rights, as per Miranda in the Spanish language. CERVANTES acknowledged orally and in writing that he understood his rights and proceeded to make a voluntary statement. CERVANTES stated that his full name was Antonio CERVANTES-Cano and that he was a native and citizen of Mexico and had been born in Guerrero, Mexico. CERVANTES stated that he had entered the United States illegally in November of 1998 at an unknown location in Texas. CERVANTES freely admitted that he has never been lawfully admitted into the United States. CERVANTES further admitted that he had purchased the Rossi pistol from an unknown individual for approximately \$50.00. Immigration checks reveal that

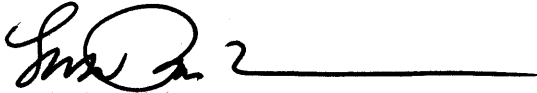
CERVANTES has never been lawfully admitted into the United States.

Antonio CERVANTES-Cano is in violation of, but not limited to, Title 18 U.S.C. 922(g)(5)(A), possession of firearms by illegal aliens. The penalty, upon conviction, for this offense shall be a fine under Title 18, or imprisoned not more than 10 years, or both.



David E. Henderson, Affiant
U.S. Department of Homeland Security
Immigration and Customs Enforcement

Sworn to and subscribed before me
this 20th day of April, 2006.



Susan Russ Walker
United States Magistrate Judge